

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3967 of 2017

- Humendra Kumar Pawade S/o Shri Bhimadhar Pawade, Aged About 32 Years, R/o Village Bhejipadar, Block Mainpur, District Gariyaband, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. The Collector, Gariyaband, District- Gariyaband, Chhattisgarh
3. The Chief Executive Officer, Zila Panchayat Gariyaband, District Gariyaband, Chhattisgarh
4. The Chief Executive Officer, Janpad Panchayat Mainpur, District Gariyaband, Chhattisgarh
5. Programme Officer, Mahatma Gandhi National Employment Guarantee Project, Janpad Panchayat Mainpur, District Gariyaband, Chhattisgarh

---- Respondent

And

WPS No. 4713 Of 2017

- Pitamber Nagesh S/o Shri Jogendra Nagesh, Aged About 25 Years R/o Village Dabriguda, Block Mainpur, District Gariyaband (Chhattisgarh), Block Mainpur, District Gariyaband, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh.
2. The Collector, Gariyaband, District Gariyaband, Chhattisgarh.
3. The Chief Executive Officer, Zila Panchayat Gariyaband

District Gariyaband (Chhattisgarh).

4. The Chief Executive Officer, Janpad Panchayat Mainpur District Gariyaband (Chhattisgarh).

---- Respondent

And

WPS No. 5184 Of 2017

- Navin Kumar S/o Shri Gulab Singh, Aged About 30 Years R/o Village & Gram Panchayat Chikhali, Block Mainpur, District Gariyaband Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Pachayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur Chhattisgarh.
2. The Collector, Gariyaband, District Gariyaband Chhattisgarh.
3. The Chief Executive Officer, Zila Panchayat Griyaband, District Gariyaband Chhattisgarh.
4. The Chief Executive Officer, Janpad Panchayat Mainpur, District Gariyaband Chhattisgarh.

---- Respondent

And

WPS No. 5608 Of 2017

- Smt. Vijaya Nagesh W/o Shri Suraj Kumar, Aged About 24 Years R/o Village Dhurwapathara, Block Mainpur, District Gariyaband, Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur, Chhattisgarh
2. The Collector, Gariyaband, District- Gariyaband, Chhattisgarh
3. The Chief Executive Officer, Zila Panchayat Gariyaband,

District Gariyaband, Chhattisgarh

4. The Chief Executive Officer, Janpad Panchayat Mainpur,
District Gariyaband, Chhattisgarh

---- Respondents

For Petitioners	Ms. Meena Shastri, Advocate
For Respondent-State	Shri Adhiraj Surana, Dy. GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/11/2017

- The petitioners would call in question the impugned order of termination passed by the Chief Executive Officer, Janpad Panchayat, Mainpur on the allegation that the petitioners are negligent and derelict in performing the duties.
- The date of initial appointment, for which appointment is made, and the date of termination in each of the case is as follows:-

Sr. No.	Name of petitioner	Date of appointment	Gam Panchayat	Block and District	Date of termination
1.	Humendra Kumar Pawade	15.05.2007	Bhejipadar	Mainpur, Gariyaband	10.04.2017
2.	Pitamber Nagesh	05.07.2011	Dabriguda	Mainpur, Gariyaband	21.08.2017
3.	Navin Kumar	15.05.2007	Chikhli	Mainpur, Gariyaband	21.08.2017
4.	Smt. Vijaya Nagesh	16.09.2013	Navapara	Mainpur, Gariyaband	21.08.2017

3. It is argued that the order of termination of each of the petitioner has been issued on certain allegations of irregularities and dereliction in duty, however, before passing the order, the petitioners have not been given any opportunity of hearing or show cause notice, therefore, the order impugned is *ex facie* illegal being in violation of principles of natural justice.
4. It is a trite law that no order causing civil consequences can be passed, without observing the rules of natural justice. The Supreme Court in **State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors. (AIR 2017 SC 4072)** held thus in paras 20 & 21 :

“20) It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in *Bhagwan Shukla v. Union of India & Ors.* (AIR 1994 SC 2480) wherein it was held as under:

“3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show-cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences

should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9.1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs.190 to Rs.181 w.e.f. 18.12.1970.”

21) The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.”

5. It is also to be seen that the counsel for the Mahatma Gandhi National Rural Employment Guarantee Act at the State level has issued a letter dated 30-7-2014 addressing to all the Collectors, *inter alia*, mentioning that if there is complaint about the illegalities, irregularities and dereliction in duty committed by Rojgar Sahayak, the concerned CEO shall provide opportunity of hearing to the Rojgar Sahayak and the process for removal from service shall be undertaken after seeking prior approval from the concerned Coordinator/Collector.
6. In the case at hand, there is no mention in the impugned order

that the same has been issued after enquiry and after obtaining prior approval of the Collector.

7. In view of the above, instead of keeping the matter pending, ends of justice would be served if the petitions are allowed reserving liberty in favour of the respondent authorities to enquire the matter and pass fresh order after affording fresh opportunity of hearing to the petitioners.
8. Accordingly, the impugned orders are hereby quashed. The writ petitions are allowed to the extent indicated above

Sd/-

Judge

Prashant Kumar Mishra

Nirala